

Farm Service Agency, USDA

§ 760.1303

administering FSA programs in a specific areas, sometimes encompassing more than one county, in a State.

Dairy operation means any person or group of persons who, as a single unit, as determined by FSA, produce and market milk commercially produced from cows, and whose production facilities are located in the United States. In any case, however, dairy operation may be given by the agency the same meaning as the definition of dairy operation as found in part 1430 of this title for other dairy assistance programs.

Department or USDA means the U. S. Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm programs (DAFP), FSA, or a designee.

Eligible production means milk from cows that was produced during February through July 2009, by a dairy producer in the United States and marketed commercially by a producer in a participating State.

Farm Service Agency or FSA means the Farm Service Agency of the USDA.

Fiscal year or FY means the year beginning October 1 and ending the following September 30. The fiscal year will be designated for this subpart by year reference to the calendar year in which it ends. For example, FY 2009 is from October 1, 2008, through September 30, 2009 (inclusive).

Marketed commercially means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount and in any case this term will be construed to allow the use of MILC records in making DELAP payments.

Milk handler means the marketing agency to or through which the dairy operation commercially markets whole milk.

Milk marketing means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.

Participating State means each of the 50 States in the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

Payment quantity means the pounds of milk production for which an oper-

ation is eligible to be paid under this subpart.

Producer means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity, as defined in 7 CFR 1400.3, who is, or whose members are, a citizen of or legal resident alien in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and who is entitled to a share of the commercial production available for marketing from the dairy operation. This term, and other terms in this subpart, will in any case be applied in a way that allows MILC records to be used to make DELAP payments.

United States means the 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

Verifiable production records means evidence that is used to substantiate the amount of production marketed commercially by a dairy operation and its producers and that can be verified by FSA through an independent source.

§ 760.1303 Requesting benefits.

(a) If as a dairy operation or producer, your records are currently available in the FSA county office from previous participation in a fiscal year 2009 dairy program administered by FSA, you do not need to request benefits under this subpart to receive payments. FSA will make payments as specified in this subpart to eligible dairy producers based on production data maintained by the FSA county office for the months of February through July 2009.

(b) If records are not available in the FSA county office, dairy producers may request benefits. The request for benefits may be a letter or email; no specific form is required.

(1) Submit your request for DELAP to: Deputy Administrator for Farm Programs, FSA, USDA, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250-0512; Attention: DELAP Program. Or you may send your request for DELAP via fax to (202) 690-1536 or e-mail to Danielle.Cooke@wdc.usda.gov.

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(2) The complete request as described in this subpart must be received by FSA by the close of business on January 19, 2010.

(3) The complete request for benefits must include all of the following:

(i) The name and location of the dairy operation;

(ii) Contact information for the dairy operation, including telephone number;

(iii) Name, percentage share, and tax identification number for the entity or individual producer's receiving a share of the payment; and

(iv) Proof of production (acceptable documentation as specified in § 760.1305).

(4) Requests for benefits and related documents not provided to FSA as required by this subpart, will not be approved.

(5) If not already provided and available to FSA, the dairy producer or dairy operation must provide documentation to support:

(i) The amount (quantity in pounds) of milk produced by the dairy operation during the months of February 2009 through July 2009;

(ii) Percentage share of milk production during February through July 2009 attributed to each producer in the dairy operation; and

(iii) Average adjusted gross income for each individual or entity with a share in the operation and any additional entities or individuals as needed to apply the adjusted gross income rules of these regulations.

(6) Each dairy producer requesting benefits under this subpart is responsible for providing accurate and truthful information and any supporting documentation. If the dairy operation provides the required information, each dairy producer who shares in the risk of a dairy operation's total production is responsible for the accuracy and truthfulness of the information submitted for the request for benefits before the request will be considered complete. Providing a false statement, request, or certification to the Government may be punishable by imprisonment, fines, other penalties, or sanctions.

(c) All information provided by the dairy producer or dairy operation is subject to verification, spot check, and

audit by FSA. Further verification information may be obtained from the dairy operation's milk handler or marketing cooperative if necessary for FSA to verify provided information. Refusal to allow FSA or any other USDA agency to verify any information provided or the inability of FSA to verify such information will result in a determination of ineligibility for benefits under this subpart.

(d) Data furnished by dairy producers and dairy operations, subject to verification, will be used to determine eligibility for program benefits. Although participation in the DELAP program is voluntary, program benefits will not be provided unless a producer or operation furnishes all requested data or such data is already recorded at the FSA county office.

§ 760.1304 Eligibility.

(a) Payment under DELAP will only be made to producers, but the dairy "operation" must first qualify its production within limits provided for in this subpart in order to have the individuals or entities that qualify as "producers" receive payment subject to whatever additional limits (such as the adjusted gross income provisions of these regulations) apply. As needed the agency may construe the terms of this regulation in any manner needed to facilitate and expedite payments using existing data and records from other assistance programs. Further, those parties (State and local governments and their political subdivisions and related agencies) excluded from the MILC program will not be eligible for DELAP payments notwithstanding any other provision of these regulations. That said, to be eligible to receive payments under this subpart, a dairy producer in the United States must:

(1) Have produced milk in the United States and commercially marketed the milk produced any time during February 2009 through July 2009;

(2) Be a producer, as defined in § 760.1302;

(3) Provide FSA with proof of milk production commercially marketed by all dairy producers in the dairy operation during February 2009 through July 2009; and